

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK**

AMANDA ZOOK,

Plaintiff,

**3:22-CV-00510
(TJM/ML)**

v.

**RICHARD LEGENHOUSEN, Johnson
City Police Department; and BRIAN
BURDINE,**

Defendants.

**THOMAS J. McAVOY,
Senior United States District Judge**

DECISION and ORDER

I. INTRODUCTION

The Clerk of the Court sent the *pro se* complaint in this action (Dkt. No. 1), together with an application to proceed *in forma pauperis* (Dkt. No. 3), a motion to appoint counsel (Dkt. No. 4), and a letter (Dkt. No. 7) with medical records (Dkt. No. 8), to the Hon. Miroslav Lovric, United States Magistrate Judge, for review. Judge Lovric granted Plaintiff's application to proceed *in forma pauperis*, denied Plaintiff's motion for appointment of counsel, directed the Clerk of the Court to strike Plaintiff's letter and medical records, and recommended that the Court dismiss with leave to replead Plaintiff's Complaint because it fails to state a claim upon which relief may be granted pursuant to 28 U.S.C. § 1915(e)(2)(B). See Order and Report-Recommendation, Dkt. No. 9. Plaintiff did not object to the recommendation for dismissal in the Order and

Report-Recommendation and the time to do so has passed.

II. DISCUSSION

After examining the record, this Court has determined that the recommendation for dismissal in the Order and Report-Recommendation is not subject to attack for plain error or manifest injustice. The Court will accept and adopt Judge Lovric's recommendation for the reasons stated within the Order and Report-Recommendation.

III. CONCLUSION

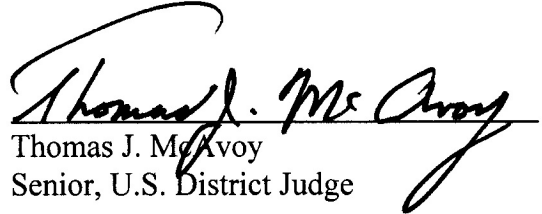
Accordingly, Judge Lovric's Order and Report-Recommendation, Dkt. No. 9, is **ACCEPTED and ADOPTED**. Thus, it is hereby

ORDERED that Plaintiff's claims asserted in the Complaint are **DISMISSED WITH LEAVE TO REPLEAD** for failure to state a claim upon which relief may be granted pursuant to 28 U.S.C. § 1915(e)(2)(B)(ii). Any amended pleading must be filed within thirty (30) days of the date of this Decision and Order. Absent the filing of an amended pleading within this period of time, dismissal of the Complaint will be deemed to be with prejudice without further order of the Court, and under such circumstances the Clerk of the Court is directed to close the file in this matter. If Plaintiff chooses to avail herself of the opportunity to amend, such amended pleading must, as indicated by Judge Lovric, set forth a short and plain statement of the facts on which she relies to support any legal claims asserted. Fed. R. Civ. P. 8(a). In addition, the amended complaint must include allegations reflecting how the individuals named as Defendants are involved in the allegedly unlawful activity. Finally, Plaintiff is informed that any such amended complaint will replace the existing Complaint, and must be a wholly integrated and complete pleading

that does not rely upon or incorporate by reference any pleading or document previously filed with the Court. See *Shields v. Citytrust Bancorp, Inc.*, 25 F.3d 1124, 1128 (2d Cir. 1994) (“It is well established that an amended complaint ordinarily supersedes the original, and renders it of no legal effect.” (internal quotation marks omitted)).

IT IS SO ORDERED.

Dated: August 17, 2022


Thomas J. McAvoy
Senior, U.S. District Judge